

REMARKS

Claims 1-7, 12 and 16 are currently pending in the present application. No new matter has been added herewith. The following addresses the substance of the Office Action.

Rejection under 35 U.S.C. § 102(b)

Regarding claim 1, the Examiner has interpreted the phrase “comprising an amino acid sequence having at least 95% identity to SEQ ID NO: 8” to include dipeptides. The Applicants have amended Claim 1 to clearly specify “comprising the amino acid sequence set forth in SEQ ID NO: 8 or an amino acid sequence having at least 95% identity thereto.” Hence, the claimed nucleic acid molecules encode either the full-length amino acid sequence of SEQ ID NO: 8, or an amino acid sequence having at least 95% identity to the full-length amino acid sequence of SEQ ID NO: 8.

Similarly, in Claim 3, the Examiner took issue with the recitation of “...a polypeptide comprising an amino acid sequence selected from SEQ ID NO: 8 or SEQ ID NO: 16” concluding that even a dipeptide reads on SEQ ID NO: 8 or 16. Claim 3 is amended to contain Markush language. This amendment resolves the issue since it specifies only two choices of polypeptide amino acid sequence (SEQ ID NO: 8 and SEQ ID NO: 16) that are encoded by the claimed isolated nucleic acid molecule.

Regarding Claim 2, the Examiner has interpreted the phrase “...which hybridizes to a fully complementary sequence...” to include any nucleic acid sequence comprising at least two nucleobases. The Applicants have amended Claim 2 to recite “...which hybridizes to the full-length complementary sequences of SEQ ID NO: 7 or SEQ ID NO: 15 under conditions of 0.1X SSC, 0.1% w/v SDS at 65°C.” There is only one interpretation of the amended language. In particular, the claimed nucleic acids must either be SEQ ID NO: 7 or SEQ ID NO: 15, or they must hybridize to the full-length of SEQ ID NO: 7 (i.e., 1870 nucleotides) or the full-length of SEQ ID NO: 15 (i.e., 2831 nucleotides) under conditions of 0.1X SSC, 0.1% w/v SDS at 65°C.

Given the claim amendments proposed above, Genbank Accession No. BM260207 can not anticipate amended Claims 1-3 since it is not at least 95% identical to the amino acid sequence set forth in SEQ ID NO: 8.

In light of the amendments to the claims and the remarks above, the claims are in compliance with 35 U.S.C. § 102(b) and removal of the rejection is respectfully requested.

No Disclaimers or Disavowals

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, the Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. The Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that the Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

CONCLUSION

In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of all outstanding rejections are respectfully requested. Allowance of the claims at an early date is solicited. If any points remain that can be resolved by telephone, the Examiner is invited to contact the undersigned at the below-given telephone number.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: 20 December 2007

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